

## § 3015.5

justification for the change, the effective date, and the record of proceedings regarding such decision.

### § 3015.5 Rate or class not of general applicability.

(a) When the Postal Service determines to add or change a rate or class not of general applicability, it shall file notice of its decision with the Commission at least 15 days before the effective date of the change.

(b) The notice filed with the Commission shall include an explanation and justification for the change, the effective date, the rate and class decision, and the record of proceedings regarding such decision.

(c) In addition to the notice, the Postal Service shall file with the Commission:

(1) Sufficient revenue and cost data for the 12-month period following the effective date of the rate or class to demonstrate that each affected competitive product will be in compliance with 39 U.S.C. 3633(a)(2); and

(2) A certified statement by a representative of the Postal Service attesting to the accuracy of the data submitted, and explaining why, following the change, competitive products in total will be in compliance with 39 U.S.C. 3633(a)(1) and (3).

### § 3015.6 Sufficiency of information.

If, after review of the information submitted pursuant to this part, the Commission determines additional information is necessary to enable it to evaluate whether competitive products will be in compliance with 39 U.S.C. 3633(a), it may, in its discretion, require the Postal Service to provide additional information as deemed necessary.

### § 3015.7 Standards for compliance.

For purposes of determining competitive products' compliance with 39 U.S.C. 3633, the Commission will apply the following standards:

(a) Incremental costs will be used to test for cross-subsidies by market dominant products of competitive products. To the extent that incremental cost data are unavailable, the Commission will use competitive products' attributable costs supplemented to include

## 39 CFR Ch. III (7–1–08 Edition)

causally related, group-specific costs to test for cross-subsidies.

(b) Each competitive product must recover its attributable costs as defined in 39 U.S.C. 3631(b).

(c) Annually, on a fiscal year basis, the appropriate share of institutional costs to be recovered from competitive products collectively is, at a minimum, 5.5 percent of the Postal Service's total institutional costs.

## PART 3020—PRODUCT LISTS

### Subpart A—Mail Classification Schedule

Sec.

3020.1 Applicability.

3020.10 General.

3020.11 Initial Mail Classification Schedule.

3020.12 Publication of the Mail Classification Schedule.

3020.13 Contents of the Mail Classification Schedule.

3020.14 Notice of change.

APPENDIX A TO SUBPART A OF PART 3020—  
MAIL CLASSIFICATION SCHEDULE

### Subpart B—Requests Initiated by the Postal Service To Modify the Product Lists Described Within the Mail Classification Schedule

3020.30 General.

3020.31 Contents of a request.

3020.32 Supporting justification.

3020.33 Docket and notice.

3020.34 Review.

3020.35 Further proceedings.

### Subpart C—Requests Initiated by Users of Mail To Modify the Product Lists Described Within the Mail Classification Schedule

3020.50 General.

3020.51 Contents of a request.

3020.52 Supporting justification.

3020.53 Docket and notice.

3020.54 Postal Service notice and reply.

3020.55 Review.

3020.56 Further proceedings.

### Subpart D—Proposal of the Commission To Modify the Product Lists Described Within the Mail Classification Schedule

3020.70 General.

3020.71 Contents of a proposal.

3020.72 Supporting justification.

3020.73 Docket and notice.

3020.74 Postal Service notice and reply.

3020.75 Review.

## Postal Regulatory Commission

## § 3020.13

3020.76 Further proceedings.

### Subpart E—Requests Initiated by the Postal Service To Change the Mail Classification Schedule

3020.90 General.  
3020.91 Modification.  
3020.92 Public input.  
3020.93 Implementation.

### Subpart F—Size and Weight Limitations for Mail Matter

3020.110 General.  
3020.111 Limitations applicable to market dominant mail matter.  
3020.112 Limitations applicable to competitive mail matter.

AUTHORITY: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

SOURCE: 72 FR 63698, Nov. 9, 2007, unless otherwise noted.

### Subpart A—Mail Classification Schedule

#### § 3020.1 Applicability.

(a) The rules in this part provide for establishing product lists. The product lists shall categorize postal products as either market dominant or competitive. As established, the market dominant and competitive product lists will be specified in the Mail Classification Schedule and shall be consistent with the market dominant products identified in 39 U.S.C. 3621(a) and the competitive products identified in 39 U.S.C. 3631(a).

(b) Once established, the Mail Classification Schedule may be modified subject to the procedures specified in this part.

#### § 3020.10 General.

The Mail Classification Schedule shall consist of two parts. Part One shall specify the list of market dominant products and include the explanatory information specified in § 3020.13(a). Part Two shall specify the list of competitive products and include the explanatory information specified in § 3020.13(b).

#### § 3020.11 Initial Mail Classification Schedule.

The initial Mail Classification Schedule shall specify the market dominant

and competitive product lists. The Mail Classification Schedule product lists shall reflect the market dominant and competitive product lists identified in 39 U.S.C. 3621(a) and 39 U.S.C. 3631(a) respectively. The explanatory detailed descriptive information specified in § 3020.13(a) and § 3020.13(b) shall be incorporated by subsequent rule-making.

#### § 3020.12 Publication of the Mail Classification Schedule.

(a) The Mail Classification Schedule established in accordance with subchapters I, II, and III of chapter 36 of title 39 of the United States Code and this subpart shall appear as Appendix A to this subpart.

(b) *Availability of the Mail Classification Schedule.* Copies of the Mail Classification Schedule, both current and previous issues, are available during regular business hours for reference and public inspection at the Postal Regulatory Commission's Reading Room located at 901 New York Avenue, NW., Suite 200, Washington, DC 20268-0001. The Mail Classification Schedule, both current and previous issues, also is available on the Internet at <http://www.prc.gov>.

#### § 3020.13 Contents of the Mail Classification Schedule.

The Mail Classification Schedule shall provide:

(a) The list of market dominant products, including:

(1) The class of each market dominant product;

(2) The description of each market dominant product;

(3) A schedule listing for each market dominant product the current rates and fees;

(4) Where applicable, the identification of a product as a special classification within the meaning of 39 U.S.C. 3622(c)(10) for market dominant products;

(5) Where applicable, the identification of a product as an experimental product undergoing a market test; and

(6) Where applicable, the identification of a product as a non-postal product.

(b) The list of competitive products, including:

## § 3020.14

(1) The description of each competitive product;

(2) A schedule listing for each competitive product of general applicability the current rates and fees;

(3) The identification of each product not of general applicability within the meaning of 39 U.S.C. 3632(b)(3) for competitive products;

(4) Where applicable, the identification of a product as an experimental product undergoing a market test; and

(5) Where applicable, the identification of a product as a non-postal product.

### § 3020.14 Notice of change.

Whenever the Postal Regulatory Commission modifies the list of products in the market dominant category or the competitive category, it shall cause notice of such change to be published in the FEDERAL REGISTER. The notice shall:

(a) Include the current list of market dominant products and the current list of competitive products appearing in the Mail Classification Schedule;

(b) Indicate how and when the previous product lists have been modified; and

(c) Describe other changes to the Mail Classification Schedule as necessary.

#### APPENDIX A TO SUBPART A OF PART 3020—MAIL CLASSIFICATION SCHEDULE

##### Table of Contents

##### Part A—Market Dominant Products

###### Sec.

##### 1000 Market Dominant Product List

###### 1001 Market Dominant Product Descriptions

##### 1100 First-Class Mail

###### 1105 Single-piece Letters/Postcards

###### 1110 Bulk Letters/Postcards

###### 1115 Flats

###### 1120 Parcels

##### 1125 Outbound Single-Piece First-Class Mail International

##### 1130 Inbound Single-Piece First-Class Mail International

##### 1200 Standard Mail (Regular and Nonprofit)

###### 1205 High Density and Saturation Letters

##### 1210 High Density and Saturation Flats/Parcels

###### 1215 Carrier Route

###### 1220 Letters

###### 1225 Flats

##### 1230 Non Flat-Machinables (NFM)s/Parcels

## 39 CFR Ch. III (7–1–08 Edition)

##### 1300 Periodicals

###### 1305 Within County Periodicals

###### 1310 Outside County Periodicals

##### 1400 Package Services

###### 1405 Single-Piece Parcel Post

##### 1410 Inbound Surface Parcel Post (at UPU rates)

###### 1415 Bound Printed Matter Flats

###### 1420 Bound Printer Matter Parcels

###### 1425 Media Mail/Library Mail

##### 1500 Special Services

###### 1505 Ancillary Services

###### 1505.1 Address Correction Service

###### 1505.2 Applications and Mailing Permits

###### 1505.3 Business Reply Mail

###### 1505.4 Bulk Parcel Return Service

###### 1505.5 Certified Mail

###### 1505.6 Certificate of Mailing

###### 1505.7 Collect on Delivery

###### 1505.8 Delivery Confirmation

###### 1505.9 Insurance

###### 1505.10 Merchandise Return Service

###### 1505.11 Parcel Airlift (PAL)

###### 1505.12 Registered Mail

###### 1505.13 Return Receipt

###### 1505.14 Return Receipt for Merchandise

###### 1505.15 Restricted Delivery

###### 1505.16 Shipper-Paid Forwarding

###### 1505.17 Signature Confirmation

###### 1505.18 Special Handling

###### 1505.19 Stamped Envelopes

###### 1505.20 Stamped Cards

###### 1505.21 Premium Stamped Stationery

###### 1505.22 Premium Stamped Cards

##### 1510 International Ancillary Services

###### 1510.1 International Certificate of Mailing

###### 1510.2 International Registered Mail

###### 1510.3 International Return Receipt

###### 1510.4 International Restricted Delivery

###### 1515 Address List Services

###### 1520 Caller Service

##### 1525 Change-of-Address Credit Card Authentication

###### 1530 Confirm

###### 1535 International Reply Coupon Service

##### 1540 International Business Reply Mail Service

###### 1545 Money Orders

###### 1550 Post Office Box Service

##### 1555 Premium Forwarding Service (Experiment)

##### 1600 Negotiated Service Agreement

###### 1605 Discover Financial Services Negotiated Service Agreement

###### 1610 Bank One Negotiated Service Agreement

###### 1615 HSBC North America Holdings Inc. Negotiated Service Agreement

###### 1620 Bookspan Negotiated Service Agreement

##### Part B—Competitive Products

##### 2000 Competitive Product List

###### 2001 Competitive Product Descriptions

##### 2100 Express Mail

###### 2105 Express Mail

**Postal Regulatory Commission****Pt. 3020, Subpt. A, App. A**

2110 Outbound International Expedited Services  
2115 Inbound International Expedited Services  
2200 Priority Mail  
2205 Priority Mail  
2210 Outbound Priority Mail International  
2215 Inbound Air Parcel Post  
2300 Parcel Select  
2400 Parcel Return Service  
2500 International  
2505 International Priority Airlift (IPA)  
2510 International Surface Airlift (ISAL)  
2515 International Direct Sacks—M-Bags  
2520 Global Customized Shipping Services  
2525 Inbound Surface Parcel Post (at non-UPU rates)  
2530 International Money Transfer Service  
2535 International Ancillary Services  
2535.1 International Certificate of Mailing  
2535.2 International Registered Mail  
2535.3 International Return Receipt  
2535.4 International Restricted Delivery  
2535.5 International Insurance  
2600 Negotiated Service Agreements  
2605 Domestic  
2610 Outbound International  
Glossary of Terms and Conditions  
Country Price Lists for International Mail  
Part A—Market Dominant Products  
1000 Market Dominant Product List  
First-Class Mail  
Single-piece Letters/Postcards  
Bulk Letters/Postcards  
Flats  
Parcels  
Outbound Single-Piece First-Class Mail International  
Inbound Single-Piece First-Class Mail International  
Standard Mail (Regular and Nonprofit)  
High Density and Saturation Letters  
High Density and Saturation Flats/Parcels  
Carrier Route  
Letters  
Flats  
Not Flat-Machinables (NFM)/Parcels  
Periodicals  
Within County Periodicals  
Outside County Periodicals  
Package Services  
Single-Piece Parcel Post  
Inbound Surface Parcel Post (at UPU rates)  
Bound Printed Matter Flats  
Bound Printed Matter Parcels  
Media Mail/Library Mail  
Special Services  
Ancillary Services  
International Ancillary Services  
Address List Services  
Caller Service  
Change-of-Address Credit Card Authentication

Confirm  
International Reply Coupon Service  
International Business Reply Mail Service  
Money Orders  
Post Office Box Service  
Premium Forwarding Service (Experiment)  
Negotiated Service Agreements  
Discover Financial Services Negotiated Service Agreement  
Bank One Negotiated Service Agreement  
HSBC North America Holdings Inc. Negotiated Service Agreement  
Bookspan Negotiated Service Agreement  
1001 Market Dominant Product Descriptions  
Sec.  
1100 First-Class Mail [Reserved for Class Description]  
1105 Single-Piece Letters/Postcards [Reserved for Product Description]  
1110 Bulk Letters/Postcards [Reserved for Product Description]  
1115 Flats [Reserved for Product Description]  
1120 Parcels [Reserved for Product Description]  
1125 Outbound Single-Piece First-Class Mail International [Reserved for Product Description]  
1130 Inbound Single-Piece First-Class Mail International [Reserved for Product Description]  
1200 Standard Mail (Regular and Nonprofit) [Reserved for Class Description]  
1205 High Density and Saturation Letters [Reserved for Product Description]  
1210 High Density and Saturation Flats/Parcels [Reserved for Product Description]  
1215 Carrier Route [Reserved for Product Description]  
1220 Letters [Reserved for Product Description]  
1225 Flats [Reserved for Product Description]  
1230 Not Flat-Machinables (NFMs)/Parcels [Reserved for Product Description]  
1300 Periodicals [Reserved for Class Description]  
1305 Within County Periodicals [Reserved for Product Description]  
1310 Outside County Periodicals [Reserved for Product Description]  
1400 Package Services [Reserved for Class Description]  
1405 Single-Piece Parcel Post [Reserved for Product Description]  
1410 Inbound Surface Parcel Post (at UPU rates) [Reserved for Product Description]  
1415 Bound Printed Matter Flats [Reserved for Product Description]  
1420 Bound Printed Matter Parcels [Reserved for Product Description]  
1425 Media Mail/Library Mail [Reserved for Product Description]  
1500 Special Services [Reserved for Class Description]  
1505 Ancillary Services

1505.1 Address Correction Service [Reserved for Product Description]  
 1505.2 Applications and Mailing Permits [Reserved for Product Description]  
 1505.3 Business Reply Mail [Reserved for Product Description]  
 1505.4 Bulk Parcel Return Service [Reserved for Product Description]  
 1505.5 Certified Mail [Reserved for Product Description]  
 1505.6 Certificate of Mailing [Reserved for Product Description]  
 1505.7 Collect on Delivery [Reserved for Product Description]  
 1505.8 Delivery Confirmation [Reserved for Product Description]  
 1505.9 Insurance [Reserved for Product Description]  
 1505.10 Merchandise Return Service [Reserved for Product Description]  
 1505.11 Parcel Airlift (PAL) [Reserved for Product Description]  
 1505.12 Registered Mail [Reserved for Product Description]  
 1505.13 Return Receipt [Reserved for Product Description]  
 1505.14 Return Receipt for Merchandise [Reserved for Product Description]  
 1505.15 Restricted Delivery [Reserved for Product Description]  
 1505.16 Shipper-Paid Forwarding [Reserved for Product Description]  
 1505.17 Signature Confirmation [Reserved for Product Description]  
 1505.18 Special Handling [Reserved for Product Description]  
 1505.19 Stamped Envelopes [Reserved for Product Description]  
 1505.20 Stamped Cards [Reserved for Product Description]  
 1505.21 Premium Stamped Stationery [Reserved for Product Description]  
 1505.22 Premium Stamped Cards [Reserved for Product Description]  
 1510 International Ancillary Services  
 1510.1 International Certificate of Mailing [Reserved for Product Description]  
 1510.2 International Registered Mail [Reserved for Product Description]  
 1510.3 International Return Receipt [Reserved for Product Description]  
 1510.4 International Restricted Delivery [Reserved for Product Description]  
 1515 Address List Services [Reserved for Product Description]  
 1520 Caller Service [Reserved for Product Description]  
 1525 Change-of-Address Credit Card Authentication [Reserved for Product Description]  
 1530 Confirm [Reserved for Product Description]  
 1535 International Reply Coupon Service [Reserved for Product Description]  
 1540 International Business Reply Mail Service [Reserved for Product Description]

1545 Money Orders [Reserved for Product Description]  
 1550 Post Office Box Service [Reserved for Product Description]  
 1555 Premium Forwarding Service (Experiment) [Reserved for Product Description]  
 1600 Negotiated Service Agreements [Reserved for Class Description]  
 1605 Discover Financial Services Negotiated Service Agreement [Reserved for Product Description]  
 1610 Bank One Negotiated Service Agreement [Reserved for Product Description]  
 1615 HSBC North America Holdings Inc. Negotiated Service Agreement [Reserved for Product Description]  
 1620 Bookspan Negotiated Service Agreement [Reserved for Product Description]  
 Part B—Competitive Products  
 2000 Competitive Product List  
 Express Mail  
 Express Mail  
 Outbound International Expedited Services  
 Inbound International Expedited Services  
 Priority Mail  
 Priority Mail  
 Outbound Priority Mail International  
 Inbound Air Parcel Post  
 Parcel Select  
 Parcel Return Service  
 International  
 International Priority Airlift (IPA)  
 International Surface Airlift (ISAL)  
 International Direct Sacks-M-Bags  
 Global Customized Shipping Services  
 Inbound Surface Parcel Post (at non-UPU rates)  
 International Money Transfer Service  
 International Ancillary Services  
 Negotiated Service Agreements  
 Domestic  
 Outbound International  
 2001 Competitive Product Descriptions  
 Sec.  
 2100 Express Mail [Reserved for Group Description]  
 2105 Express Mail [Reserved for Product Description]  
 2110 Outbound International Expedited Services [Reserved for Product Description]  
 2115 Inbound International Expedited Services  
 2200 Priority [Reserved for Product Description]  
 2205 Priority Mail [Reserved for Product Description]  
 2210 Outbound Priority Mail International [Reserved for Product Description]  
 2215 Inbound Air Parcel Post [Reserved for Product Description]  
 2300 Parcel Select [Reserved for Group Description]  
 2400 Parcel Return Service [Reserved for Group Description]  
 2500 International [Reserved for Group Description]

## Postal Regulatory Commission

## § 3020.32

2505 International Priority Airlift (IPA) [Reserved for Product Description]  
2510 International Surface Airlift (ISAL) [Reserved for Product Description]  
2515 International Direct Sacks—M-Bags  
2520 Global Customized Shipping Services [Reserved for Product Description]  
2525 International Money Transfer Service [Reserved for Product Description]  
2530 Inbound Surface Parcel Post (at non-UPU rates) [Reserved for Product Description]  
2535 International Ancillary Services [Reserved for Product Description]  
2535.1 International Certificate of Mailing [Reserved for Product Description]  
2535.2 International Registered Mail [Reserved for Product Description]  
2535.3 International Return Receipt [Reserved for Product Description]  
2535.4 International Restricted Delivery [Reserved for Product Description]  
2535.5 International Insurance [Reserved for Product Description]  
2600 Negotiated Service Agreements [Reserved for Group Description]  
2605 Domestic [Reserved for Product Description]  
2610 Outbound International [Reserved for Group Description]  
Glossary of Terms and Conditions [Reserved]  
Country Price Lists for International Mail [Reserved]

### Subpart B—Requests Initiated by the Postal Service To Modify the Product Lists Described Within the Mail Classification Schedule

#### § 3020.30 General.

The Postal Service, by filing a request with the Commission, may propose a modification to the market dominant product list or the competitive product list appearing in the Mail Classification Schedule. For purposes of this part, modification shall be defined as adding a product to a list, removing a product from a list, or moving a product from one list to the other list.

#### § 3020.31 Contents of a request.

A request to modify the market dominant product list or the competitive product list shall:

- (a) Provide the name, and class if applicable, of each product that is the subject of the request;
- (b) Provide a copy of the Governor's decision supporting the request, if any;

(c) Indicate whether the request proposes to add a product to the market dominant list or the competitive list, remove a product from the market dominant list or the competitive list, or transfer a product from the market dominant list to the competitive list or from the competitive list to the market dominant list;

(d) Indicate whether each product that is the subject of the request is:

(1) A special classification within the meaning of 39 U.S.C. 3622(c)(10) for market dominant products;

(2) A product not of general applicability within the meaning of 39 U.S.C. 3632(b)(3) for competitive products; or

(3) A non-postal product.

(e) Provide all supporting justification upon which the Postal Service proposes to rely; and

(f) Include a copy of the applicable sections of the Mail Classification Schedule and the proposed changes therein in legislative format.

#### § 3020.32 Supporting justification.

Supporting justification shall be in the form of a statement from one or more knowledgeable Postal Service official(s) who sponsors the request and attests to the accuracy of the information contained within the statement. The justification shall:

(a) Demonstrate why the change is in accordance with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code;

(b) Explain why, as to market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. 3622(d), and that it advances the objectives of 39 U.S.C. 3622(b), taking into account the factors of 39 U.S.C. 3622(c);

(c) Explain why, as to competitive products, the addition, deletion, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633;

(d) Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can, without risk of losing a significant level of business to other firms offering similar products:

(1) Set the price of such product substantially above costs;

### § 3020.33

- (2) Raise prices significantly;
- (3) Decrease quality; or
- (4) Decrease output.
- (e) Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 18 U.S.C. 1696 subject to the exceptions set forth in 39 U.S.C. 601;
- (f) Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product;
- (g) Provide any information available on the views of those who use the product on the appropriateness of the proposed modification;
- (h) Provide a description of the likely impact of the proposed modification on small business concerns; and
- (i) Include such information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification.

### § 3020.33 Docket and notice.

The Commission will establish a docket for each request to modify the market dominant list or the competitive product list, promptly publish notice of the request in the FEDERAL REGISTER, and post the filing on its Web site. The notice shall include:

- (a) The general nature of the proceeding;
- (b) A reference to legal authority to which the proceeding is to be conducted;
- (c) A concise description of the proposals for changes in the Mail Classification Schedule;
- (d) The identification of an officer of the Commission to represent the interests of the general public in the docket;
- (e) A specified period for public comment; and
- (f) Such other information as the Commission deems appropriate.

### § 3020.34 Review.

The Commission shall review the request and responsive comments. The Commission shall either:

- (a) Approve the request to modify the market dominant and competitive product lists;

### 39 CFR Ch. III (7–1–08 Edition)

- (b) Institute further proceedings to consider all or part of the request if it finds that there is substantial likelihood that the modification is inconsistent with statutory policies or Commission rules, and explain its reasons for not approving the request to modify the market dominant and competitive product lists;

- (c) Provide an opportunity for the Postal Service to modify its request; or

- (d) Direct other action as the Commission may consider appropriate.

### § 3020.35 Further proceedings.

If the Commission determines that further proceedings are necessary, a conference shall be scheduled to consider the concerns expressed by the Commission. Written statements commenting on the Commission's concerns shall be requested, to be filed 7 days prior to the conference. Upon conclusion of the conference, the Commission shall promptly issue a ruling to:

- (a) Provide for a period of discovery to obtain further information;
- (b) Schedule a hearing on the record for further consideration of the request;
- (c) Explain the reasons for not going forward with additional proceedings and approve the request to modify the market dominant and competitive product lists; or
- (d) Direct other action as the Commission may consider appropriate.

### Subpart C—Requests Initiated by Users of the Mail To Modify the Product Lists Described Within the Mail Classification Schedule

### § 3020.50 General.

Users of the mail, by filing a request with the Commission, may propose a modification to the market dominant product list or the competitive product list appearing in the Mail Classification Schedule. For purposes of this part, modification shall be defined as adding a product to a list, removing a product from a list, or transferring a product from one list to the other list.

**§ 3020.51 Contents of a request.**

A request to modify the market dominant product list or the competitive product list shall:

(a) Provide the name, and class if applicable, of each product that is the subject of the request;

(b) Indicate whether the request proposes to add a product to the market dominant list or the competitive list, remove a product from the market dominant list or the competitive list, or move a product from the market dominant list to the competitive list or from the competitive list to the market dominant list;

(c) Indicate whether each product that is the subject of the request is:

(1) A special classification within the meaning of 39 U.S.C. 3622(c)(10) for market dominant products;

(2) A product not of general applicability within the meaning of 39 U.S.C. 3632(b) for competitive products; or

(3) A non-postal product.

(d) Provide all supporting justification upon which the proponent of the request proposes to rely; and

(e) Include a copy of the applicable sections of the Mail Classification Schedule and the proposed changes therein in legislative format.

**§ 3020.52 Supporting justification.**

Supporting justification shall be in the form of a statement from a knowledgeable proponent of the request who attests to the accuracy of the information contained within the statement. The justification shall:

(a) Demonstrate why the change is in accordance with the policies and the applicable criteria of chapter 36 of 39 U.S.C.;

(b) Explain why, as to market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. 3622(d), and that it advances the objectives of 39 U.S.C. 3622(b), taking into account the factors of 39 U.S.C. 3622(c);

(c) Explain why, as to competitive products, the addition, deletion, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633.

(d) Verify that the change does not classify as competitive a product over which the Postal Service exercises suf-

ficient market power that it can, without risk of losing a significant level of business to other firms offering similar products:

(1) Set the price of such product substantially above costs;

(2) Raise prices significantly;

(3) Decrease quality; or

(4) Decrease output.

(e) Explain whether or not each product that is the subject of the request is covered by the postal monopoly, as reserved to the Postal Service under 18 U.S.C. 1696 subject to the exceptions set forth in 39 U.S.C. 601;

(f) Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product;

(g) Provide any information available on the views of those who use the product on the appropriateness of the proposed modification;

(h) Provide a description of the likely impact of the proposed modification on small business concerns; and

(i) Include such information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification.

**§ 3020.53 Docket and notice.**

The Commission will establish a docket for each request to modify the market dominant list or the competitive product list, promptly publish notice of the request in the FEDERAL REGISTER, and post the filing on its Web site. The notice shall include:

(a) The general nature of the proceeding;

(b) A reference to legal authority to which the proceeding is to be conducted;

(c) A concise description of the proposals for changes in the Mail Classification Schedule;

(d) The identification of an Office of the Commission to represent the interests of the general public in the docket;

(e) A specified period for public comment; and

(f) Such other information as the Commission deems appropriate.



## **§ 3020.54**

### **§ 3020.54 Postal Service notice and reply.**

The Secretary of the Commission shall forward to the Postal Service a copy of the request. Within 28 days of the filing of the request, the Postal Service shall provide its preliminary views in regard to the request. The Postal Service may include suggestions for appropriate Commission action in response to the request.

### **§ 3020.55 Review.**

The Commission shall review the request, the Postal Service reply, and any public comment to determine whether the proposed modification to the market dominant and competitive product lists complies with applicable statutory requirements and the Commission's rules, and whether the proposed modification is consistent with the position of the Postal Service as expressed in its reply. The Commission shall either:

- (a) Approve the request to modify the market dominant and competitive product lists, but only to the extent the modification is consistent with the position of the Postal Service;
- (b) Reject the request;
- (c) Institute further proceedings to consider the request to modify the market dominant and competitive product lists; or
- (d) Direct other action as the Commission may consider appropriate.

### **§ 3020.56 Further proceedings.**

If the Commission determines that further proceedings are necessary, a conference shall be scheduled to consider the merits of going forward with the request. Upon conclusion of the conference, the Commission shall promptly issue a ruling to:

- (a) Provide for a period of discovery to obtain further information;
- (b) Schedule a hearing on the record for further consideration of the request;
- (c) Explain the reasons for not going forward with formal proceedings; or
- (d) Direct other action as the Commission may consider appropriate.

## **39 CFR Ch. III (7–1–08 Edition)**

### **Subpart D—Proposal of the Commission To Modify the Product Lists Described Within the Mail Classification Schedule**

#### **§ 3020.70 General.**

The Commission, of its own initiative, may propose a modification to the market dominant product list or the competitive product list provided within the Mail Classification Schedule. For purposes of this part, modification shall be defined as adding a product to a list, removing a product from a list, or transferring a product from one list to the other list.

#### **§ 3020.71 Contents of a proposal.**

A proposal to modify the market dominant product list or the competitive product list shall:

- (a) Provide the name, and class if applicable, of each product that is the subject of the proposal;
- (b) Indicate whether the proposal would add a product to the market dominant list or the competitive list, remove a product from the market dominant list or the competitive list, or move a product from the market dominant list to the competitive list or from the competitive list to the market dominant list;
- (c) Indicate whether each product that is the subject of the proposal is:
  - (1) A special classification within the meaning of 39 U.S.C. 3622(c)(10) for market dominant products;
  - (2) A product not of general applicability within the meaning of 39 U.S.C. 3632(b) for competitive products; or
  - (3) A non-postal product.
- (d) Provide justification supporting the proposal; and
- (e) Include a copy of the applicable sections of the Mail Classification Schedule and the proposed changes therein in legislative format.

#### **§ 3020.72 Supporting justification.**

Supporting justification shall:

- (a) Provide an explanation for initiating the docket;
- (b) Explain why, as to market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. 3622(d), and that it advances the objectives of 39 U.S.C. 3622(b), taking

## Postal Regulatory Commission

## § 3020.76

into account the factors of 39 U.S.C. 3622(c);

(c) Explain why, as to competitive products, the addition, subtraction, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633;

(d) Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can, without risk of losing a significant level of business to other firms offering similar products:

(1) Set the price of such product substantially above costs;

(2) Raise prices significantly;

(3) Decrease quality; or

(4) Decrease output.

(e) Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 18 U.S.C. 1696 subject to the exceptions set forth in 39 U.S.C. 601;

(f) Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product;

(g) Provide any information available on the views of those who use the product involved on the appropriateness of the proposed modification;

(h) Provide a description of the likely impact of the proposed modification on small business concerns; and

(i) Include such information and data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Postal Service and users of the mail of the nature, scope, significance, and impact of the proposed modification.

### § 3020.73 Docket and notice.

The Commission will establish a docket for each request to modify the market dominant list or the competitive product list, promptly publish notice of the request in the FEDERAL REGISTER, and post the filing on its Web site. The notice shall include:

(a) The general nature of the proceeding;

(b) A reference to legal authority to which the proceeding is to be conducted;

(c) A concise description of the proposals for changes in the Mail Classification Schedule;

(d) The identification of an officer of the Commission to represent the interests of the general public in the docket;

(e) A specified period for public comment; and

(f) Such other information as the Commission deems appropriate.

### § 3020.74 Postal Service notice and reply.

The Secretary of the Commission shall forward to the Postal Service a copy of the notice of proposal. Within 28 days of the filing of the proposal, the Postal Service shall provide its preliminary views in regard to the proposal. The Postal Service may include suggestions for appropriate further procedural steps.

### § 3020.75 Review.

The Commission shall review the Postal Service reply and public comment. The Commission shall either:

(a) Approve the proposal to modify the market dominant and competitive product lists, but only to the extent the modification is consistent with the position of the Postal Service;

(b) Withdraw the proposal;

(c) Institute further proceedings to consider the proposal, identifying relevant issues that may require further development; or

(d) Direct other action as the Commission may consider appropriate.

### § 3020.76 Further proceedings.

If the Commission determines that further proceedings are appropriate, a conference shall be scheduled to consider the merits of going forward with the proposal. Upon conclusion of the conference, the Commission shall promptly issue a ruling to:

(a) Provide for a period of discovery to obtain further information;

(b) Schedule a hearing on the record for further consideration of the proposal;

(c) Explain the reasons for not going forward with formal proceedings; or

(d) Direct other action as the Commission may consider appropriate.

**Subpart E—Requests Initiated by the Postal Service to Change the Mail Classification Schedule**

**§ 3020.90 General.**

The Postal Service shall assure that product descriptions in the Mail Classification Schedule accurately represent the current offerings of Postal Service products and services.

**§ 3020.91 Modification.**

The Postal Service shall submit corrections to product descriptions in the Mail Classification Schedule that do not constitute a proposal to modify the market dominant product list or the competitive product list as defined in § 3020.30 by filing notice of the proposed change with the Commission no later than 15 days prior to the effective date of the proposed change.

[73 FR 6427, Feb. 4, 2008]

**§ 3020.92 Public input.**

The Commission shall publish Postal Service submissions pursuant to § 3020.91 on its Web site and provide interested persons with an opportunity to comment on whether the planned changes are inconsistent with 39 U.S.C. 3642.

**§ 3020.93 Implementation.**

(a) The Commission shall review the proposed changes to product descriptions, and the comments thereon. So long as such changes are not inconsistent with 39 U.S.C. 3642, the Commission shall, subject to editorial corrections, change the Mail Classification Schedule to coincide with the effective date of the proposed change.

(b) The Commission's finding that changes to the product descriptions are not inconsistent with 39 U.S.C. 3642 is provisional and subject to subsequent review.

[72 FR 63698, Nov. 9, 2007, as amended at 73 FR 6427, Feb 4, 2008]

**Subpart F—Size and Weight Limitations for Mail Matter**

**§ 3020.110 General.**

Applicable size and weight limitations for mail matter shall appear in the Mail Classification Schedule as part of the description of each product.

**§ 3020.111 Limitations applicable to market dominant mail matter.**

(a) The Postal Service shall inform the Commission of updates to size and weight limitations for market dominant mail matter by filing notice with the Commission 45 days prior to the effective date of the proposed update. The notice shall include a copy of the applicable sections of the Mail Classification Schedule and the proposed updates therein in legislative format.

(b) The Commission shall provide notice of the proposed update in the FEDERAL REGISTER and seek public comment on whether the proposed update is in accordance with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code.

(c) If the Commission finds the proposed update in accordance with the policies and the applicable criteria of chapter 36 of 39 U.S.C., the Commission shall review the proposed Mail Classification Schedule language for formatting and conformance with the structure of the Mail Classification Schedule, and subject to editorial changes, shall change the Mail Classification Schedule to coincide with the effective date of the proposed update.

(d) If the Commission finds the proposed update not in accordance with the policies and the applicable criteria of chapter 36 of title 39 of the United States Code, the Commission may direct other action as deemed appropriate.

**§ 3020.112 Limitations applicable to competitive mail matter.**

The Postal Service shall notify the Commission of updates to size and weight limitations for competitive mail matter pursuant to subpart E of this part.